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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

VERIFIED IDENTITY PASS, INC., DBA  
CLEAR REGISTERED TRAVELER,

Plaintiff,

-against-

FRED FISCHER, SAFLINK CORPORATION,  
and FLO CORPORATION,

Defendants.

Case No. 07 Civ. \_\_\_\_

AFFIDAVIT OF ALAN E. BRILL IN  
SUPPORT OF TEMPORARY  
RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION

STATE OF CALIFORNIA     )  
                                      : ss.:  
COUNTY OF ORANGE     )

ALAN E. BRILL, being duly sworn, deposes and says:

1. I am a Senior Managing Director for Technology Services for Kroll Ontrack. I make this affidavit in support of Verified Identity Pass, Inc.'s ("Verified") request for a temporary restraining order and preliminary injunction. Unless stated otherwise, I have personal knowledge of the matters stated in this affidavit, and if called as a witness, could testify competently thereto.

2. Kroll Ontrack specializes in the field of computer forensics. Computer forensics is the use of specialized techniques for recovery, authentication, and analysis of electronic data

when a case involves issues relating to reconstruction of computer usage, examination of residual data, authentication of data by technical analysis or explanation of technical features of data and computer usage. Computer forensics requires specialized expertise that goes beyond normal data collection and preservation techniques available to end-users or system support personnel.

3. Kroll also has substantial expertise in the assessment of computer access, damage to computer systems as a result of unauthorized access, and in the implementation of remedial safeguards to prevent future unauthorized access.

**Background and Qualifications**

4. I am the founder of Kroll's global High-technology Investigation and Computer Forensic practices. At Kroll and Kroll Ontrack, my work has ranged from large-scale information security reviews for multi-billion dollar corporations, to criminal investigations of computer hackers, frauds on the Internet, identity theft, misappropriation of intellectual property, as well as telecommunication-related frauds.

5. Prior to joining Kroll, I was Director of the Information Systems and Information Security Bureau of the New York Department of Investigation, where I served as the senior government official with responsibility for information security, and as a Deputy Inspector General in the New York City government.

6. Prior to that, I served as Senior Manager in the information security practice at the international accounting firm of Ernst & Whinney (now Ernst & Young), and was the co-founder of that firm's Data Systems Security Review practice. While at E&W, I served as the public accounting profession's representative to the EDP Auditors Foundation Professional Certification Board, and helped to establish the criteria and examination for the Certified Information Systems Auditor credential.

7. I have also served as system designer at Chase Manhattan Bank, and was on the design team for the Apollo Project Ground Support System at the NASA Manned Spacecraft Center in Houston.

8. Additionally, in the United States Army, I served as a Project Officer on the Army General Staff during the Vietnam War, as an advisor on computer/information security policy in the Office of the Secretary of Defense, and as military liaison to the New York City Police Department.

9. I have served as a visiting faculty member in the computer crime investigation programs of the United States Secret Service, the FBI Academy, the Federal Law Enforcement Training Center, and the Federal Financial Institutions Examination Counsel. I hold an appointment as an Adjunct Professor at National University in San Diego, where I am a faculty member of the school's unique online Masters degree in Forensic Sciences Program. I have also lectured for the John F. Kennedy School of Government at Harvard University. Additionally, I serve on the Board of Advisors for the Center for International Financial Crime Studies at the University of Florida's Levin School of Law.

10. I hold BA and MBA degrees from New York University. I am also an honor graduate of both the United States Army Command and General Staff College and the National Defense University's National Security Management Program.

11. I am also the author or co-author of five books in the field of information security and management, and of dozens of articles that have appeared in publications ranging from *Computerworld* to the *FBI Law Enforcement Bulletin*.

12. I have testified as an expert witness in the field of computer forensics on numerous occasions in both state and federal court. A true and correct copy of my complete *curriculum vitae* is attached hereto as Exhibit A.

**Assignment and Findings**

13. Kroll Ontrack was recently hired by Verified to (a) examine and evaluate a potential unauthorized access and use of the Salesforce Database and other verified computer systems; (b) assess any damages to the computer system from the potential unauthorized access; (c) implement remedial safeguards to prevent future unauthorized access; and (d) provide related computer forensic support.

14. This investigation is still ongoing and thus, my statements here, represent only our preliminary findings.

15. Our investigation reveals that on the morning of December 5, 2006 at 9:20:55AM (Eastern Standard Time), a user with the ID number 00530000000yXDY, which I am informed and believe is the user ID associated with Fred Fischer (the "Associated User"), accessed Verified's Salesforce Database remotely from Internet Protocol (IP) address: 24.167.168.189.

16. Our investigation further reveals IP address 24.167.168.189 is assigned to Time-Warner's RoadRunner service, which provides broadband internet access through Time Warner's television cable system to subscribers located in North Carolina's "Greensboro - Triad Region." I am informed and believe that, according to Verified's records, Mr. Fischer's home address is 6195 Old Orchard Road, Kernersville NC 27284, which is located in Forsythe County NC, one of the counties covered by this RoadRunner region.

17. The Associated User logged on to the Salesforce system at 9:20:13 am and was on the system for a little over nine minutes. From the home screen, he clicked on the "contacts" tab, which took him to the "contacts" screen. He then clicked on the "reports" tab, selected the content that he wanted exported, and instructed the database to export the CONTACT\_LIST file to his PC hard drive, in a form designed to be immediately uploadable into a spreadsheet. The fields that the Associated User requested be exported into the spreadsheet were: First Name; Last Name; Address; City; State; Zip Code; Country; Email Address; Account Owner; Title; Phone Number 1; Phone Number 2; Lead Source and Account Name. The list was sorted by the Account Name, in ascending order.

18. The Associated User had run this report within 40 seconds of logging in (at 9:20:55).

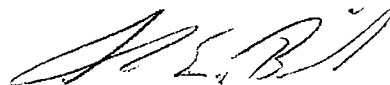
19. According to our investigation, the Associated User successfully exported the data which he requested, and thereby, successfully obtained every Verified contact that was in the Salesforce database from its inception through November 28, 2006.

20. After successfully downloading the database, the Associated User then re-entered the "reports" tab but didn't run another report. He later entered into the part of the system that allowed a user to generate a mass email to all the contacts, but then he hit a cancel button and exited out of that section. At 9:29:46, the Associated User abruptly left the system without formally logging off. What else the Associated User did while online on the Salesforce database is still under investigation.

21. Our investigation also reveals that in addition to that successful attempt, the Associated User also made four unsuccessful attempts to access the database remotely on January 21, 2007, April 4, 2007, June 12, 2007 and June 29, 2007, from the same IP address (24.167.168.189) located in North Carolina.

22. Additionally, the Associated User also made four unsuccessful attempts to access Verified's Network on February 20, 2007.

23. As noted earlier, the investigation is still ongoing. The fees that Verified has incurred through Kroll on this assignment to date already amount to more than \$5,000.



Alan E. Brill

Sworn to before me this  
19<sup>th</sup> day of July, 2007

  
Notary Public